

ASSEMBLY BILL

No. 780

Introduced by Assembly Member John A. Perez

February 26, 2009

An act to add Section 14310.1 to the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 780, as introduced, John A. Perez. Elections: failsafe ballots.

Existing law permits a voter whose qualifications or entitlement to vote cannot be immediately established, under specified circumstances, to cast a provisional ballot in an election.

This bill would provide specified requirements to permit a voter who is unexpectedly away from his or her voting precinct on election day to cast a ballot at a county or precinct other than where the voter resides.

Because this bill would increase the duties of local elections officials, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 14310.1 is added to the Elections Code, to read:

14310.1. (a) Any qualified voter who has, due to unforeseen circumstances, been forced to leave the jurisdiction where he or she registered to vote and is unable to request a vote by mail ballot, shall be entitled to vote a failsafe ballot for any statewide office or question appearing on the ballot for an election.

(b) For the purposes of this section, “failsafe ballot” means a ballot containing only state candidates or measures for the purposes of allowing a voter who meets the criteria set forth in this section to participate in a statewide election.

(c) In order for a voter to meet the conditions set forth in subdivision (a), the following criteria must be met:

(1) The voter must declare, under penalty of perjury, that he or she is a registered voter residing in the State of California.

(2) That unforeseen circumstances arose precluding the voter from casting his or her ballot in the jurisdiction wherein they are registered to vote.

(3) The circumstances precluding the voter from arose suddenly and without warning after the period where the voter may have requested a vote by mail ballot has passed, and that the voter did not request a vote by mail ballot.

(d) The County Clerk, Registrar of Voters or county elections officials must maintain a reasonable number of ballots where only state candidates and measure appear. The County Clerk, Registrar of Voters, or a county elections official may, at his or her discretion, disburse ballots directly to precinct voting stations or require a voter seeking to cast a failsafe ballot do so at the county elections office.

(e) When providing a failsafe ballot to a voter meeting the criteria of this section, the County Clerk, Registrar of Voters, or county elections official shall require the voter to sign a statement of qualification declaring, under penalty of perjury, that the voter meets the criteria set forth in this section, and shall retain the original form on file.

(f) The completed failsafe ballot and statement of qualifications shall be enclosed in a provisional ballot envelope for transmittal to the appropriate jurisdiction.

1 (g) The County Clerk, Registrar of Voters, or county elections
2 official shall transmit both the ballot and statement of qualification
3 to the appropriate jurisdiction where the voter resides to be included
4 in that jurisdiction's official statement of vote. Failsafe ballots
5 shall be transmitted within one week of the election.

6 SEC. 2. No reimbursement is required by this act pursuant to
7 Section 6 of Article XIII B of the California Constitution for certain
8 costs that may be incurred by a local agency or school district
9 because, in that regard, this act creates a new crime or infraction,
10 eliminates a crime or infraction, or changes the penalty for a crime
11 or infraction, within the meaning of Section 17556 of the
12 Government Code, or changes the definition of a crime within the
13 meaning of Section 6 of Article XIII B of the California
14 Constitution.

15 However, if the Commission on State Mandates determines that
16 this act contains other costs mandated by the state, reimbursement
17 to local agencies and school districts for those costs shall be made
18 pursuant to Part 7 (commencing with Section 17500) of Division
19 4 of Title 2 of the Government Code.